



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,339	06/05/2001	Timothy P. Barber	01,204	4133

7590

12/13/2005

SHUGHART THOMSON & KILROY, P.C.

Twelve Wyandotte Plaza

120 West 12th Street

Kansas City, MI 64105

EXAMINER

SHINGLES, KRISTIE D

ART UNIT

PAPER NUMBER

2141

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/873,339

Applicant(s)

BARBER, TIMOTHY P.

Examiner

Kristie Shingles

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### **Per Applicant's Request for Continued Examination:**

*Claims 1, 10, 16 and 24 have been amended.  
Claims 1-26 are pending.*

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/15/2005 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

3. **Claim 1** is objected to because of the following informalities: in item (b), line 10 of the claim—"a interaction" should read "an interaction". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. **Claims 1-6, 15, 21-23 and 25** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. **Regarding claims 1-6:**

- In independent claim 1, the term "substantially anonymously" in lines 2-3 of the claim language is a relative term, which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Claims 2-6 are rejected likewise for their dependence on claim 1.

b. **Regarding claim 15:**

- In line 2 of the claim language, the term "potentially accesses" is a relative term, which renders the claim indefinite. The term "potentially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.
- The claim language is unclear due to omitted steps, contradiction and/or vagueness, regarding the ability to access the merchant web site by way of a proxy, and then using a protocol to bypass communication with the proxy. The specification offers no remedial support clarifying the language of this claim and it is not clear how/why communication bypasses the proxy. Clarification is required.
- Claim 15 recites the limitation "said remote web site" in line 5 of the claim language. There is insufficient antecedent basis for this limitation in the claim.

c. **Regarding claim 21:**

- In line 2 of the claim language, the term "potentially accesses" is a relative term, which renders the claim indefinite. The term "potentially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite

Art Unit: 2141

degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

- The claim language is unclear due to omitted steps, contradiction and/or vagueness, regarding the ability to access the merchant web site by way of a proxy, and then using a protocol to bypass communication with the proxy. The specification offers no remedial support clarifying the language of this claim and it is not clear how/why communication bypasses the proxy. Clarification is required.
- Claim 21 recites the limitation "said archiver service web site" in line 5 of the claim language. There is insufficient antecedent basis for this limitation in the claim.

d. **Regarding claim 22:**

- Claim 22 recites the limitation "said profile parameter" in line 3 of the claim language. There is insufficient antecedent basis for this limitation in the claim.
- Claim 22 recites the limitation "said archiver service web site" in lines 3-4 of the claim language. There is insufficient antecedent basis for this limitation in the claim.

e. **Regarding claim 23:**

- Claim 23 recites the limitation "said archiver service web site" in line 6 of the claim language. There is insufficient antecedent basis for this limitation in the claim.

f. **Regarding claim 25:**

- In line 2 of the claim language, the term "potentially accesses" is a relative term, which renders the claim indefinite. The term "potentially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.
- Claim 25 recites the limitation "said archiver service web site" in line 7 of the claim language. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-26** are rejected under 35 U.S.C. 102(e) as being anticipated by *David* (US 2002/0073046).

a. **Per claim 1**, *David* teaches a process for collecting machine identifying information associated with a digital online access device used for substantially anonymously accessing a host computer system over a digital network, said host computer system generating an interaction record of an access therewith by said access device, and said process comprising:

- (a) capturing a machine fingerprint that identifies said access device accessing said host computer system wherein said machine fingerprint comprises a hashed attribute string that is a concatenation of attributes associated with said access device (Abstract and paragraphs 0027, 0049, 0075, 0076, 0083, 0165; provision for machine fingerprint identification and hashed attribute string);
- (b) generating a interaction identification string upon said access device accessing said host computer system (paragraphs 0064, 0076);
- (c) associating said interaction identification string with said machine fingerprint (paragraphs 0075, 0076, 0133, 0139, 0165); and
- (d) associating said interaction identification string with said interaction record generated upon said access device accessing said host computer system (paragraphs 0064, 0112, 0129, 0133-0139, 0148; associating transaction identifier, machine identifier and transaction record for attaining access).

b. **Claims 7, 16 and 24** contain limitations that are substantially equivalent to claim 1 and are therefore rejected under the same basis.

c. **Per claim 2**, *David* teaches the process as set forth in claim 1 further comprising:  
(a) capturing a digital address of said access device on said digital network (paragraphs 0023, 0026, 0028).

d. **Claim 8** is substantially equivalent to claim 2 and is therefore rejected under the same basis.

e. **Per claim 3**, *David* teaches the process as set forth in claim 1 wherein said hashed attribute string comprises: (a) a configuration setting of said access device (paragraphs 0076, 0114-0118, 0129).

f. **Claims 9 and 18** are substantially equivalent to claim 3 and are therefore rejected under the same basis.

g. **Per claim 4**, *David* teaches the process as set forth in claim 1 further comprising:  
(a) communicating a self-identification routine to said access device upon said access device accessing said host computer system (paragraphs 0076, 0114, 0115); (b) said access device executing said self-identification routine (paragraphs 0076, 0114, 0129); (c) said self-identification routine querying a configuration setting of said access device to derive said machine fingerprint (paragraphs 0076, 0114-0118); and (d) said self-identification routine communicating said machine fingerprint to a remote location for association with said interaction identification string (paragraphs 0076, 0118, 0133).

h. **Claims 12 and 14** are substantially equivalent to claim 4 and are therefore rejected under the same basis.

i. **Per claim 5**, *David* teaches the process as set forth in claim 1 further comprising:  
(a) said host system operating a host web site including an interaction page generated by interaction page code processed by said access device upon accessing said host web site (paragraphs 0023, 0133-0139); and (b) coding, within said interaction page code, a self-identification routine which causes said access device to communicate said machine fingerprint when said access device processes said interaction page code (paragraphs 0139-0144).

j. **Per claim 6**, *David* teaches the process as set forth in claim 3 further comprising:  
(a) coding said self-identification routine in such a manner that said machine fingerprint and said interaction identification string are communicated to a third party web site at which said machine fingerprint and said interaction identification string are stored (paragraphs 0022-0024, 0027, 0028, 0049, 0061, 0070-0076, 0133-0139, 0165).

k. **Claims 10, 11 and 13** are substantially equivalent to claim 6 and are therefore rejected under the same basis.

l. **Per claim 15**, *David* teaches the process as set forth in claim 12 wherein said customer computer potentially accesses said merchant web site by way of a proxy, and said communication step further comprises: (a) communicating said machine fingerprint and said transaction identification string to said remote web site using a protocol which bypasses said proxy (paragraphs 0028, 0061, 0069, 0076, 0088, 0105, 0111, 0139).

m. **Claims 21 and 25** are substantially similar to claim 15 and are therefore rejected under the same basis.



n. **Per claim 17, *David*** teaches the process as set forth in claim 16 further comprising: (a) said script causing said computer browser to communicate said machine fingerprint and said transaction identification string along with a conventional hypertext transfer protocol (HTTP) header (paragraphs 0027, 0064, 0109-0111, 0165); and (b) said archiver service additionally storing said HTTP header in association with said machine data profile (paragraphs 0063, 0075, 0129, 0144, 0148, 0149).

o. **Per claim 19, *David*** teaches the process as set forth in claim 16 further comprising: (a) said script querying said customer browser for a plurality of configuration settings (paragraphs 0076, 0084, 0091); (b) said script forming an attribute string from said plurality of configuration settings (paragraphs 0075, 0076); and (c) said script processing said attribute string to form said machine fingerprint of said customer computer (paragraphs 0049, 0076, 0114-0118, 0129).

p. **Per claim 20, *David*** teaches the process as set forth in claim 19 further comprising: (a) said script performing a hashing function on said attribute string to form said machine fingerprint (paragraphs 0076, 0112, 0165).

q. **Per claim 22, *David*** teaches the process as set forth in claim 16 further comprising: (a) said script communicating said profile parameter to said archiver service web site using a protocol other than HTTP (paragraph 0111).

r. **Claim 26** is substantially similar to claim 22 and is therefore rejected under the same basis.

s. **Per claim 23, *David*** teaches the process as set forth in claim 16 wherein said customer computer comprises a digital clock, and further comprising: (a) said script causing said

Art Unit: 2141

customer browser to query said clock for a time value (paragraphs 0066, 0130, 0139, 0144, 0146); and (b) said script causing said customer browser to send said time value to said archiver service web site along with said machine identifier (paragraphs 0066, 0112, 0139, 0144).

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: *Mi et al* (USPN 6,523,067), *Rabin et al* (USPN 6,697,948), *Rieth et al* (USPN 6,134,597).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***Kristie Shingles***

***Examiner***

***Art Unit 2141***

***kds***

  
RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER